

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

GABRIEL ECKARD,

Plaintiff,

V.

JEA LEE,

Defendant.

Case No. C19-429-RAJ-MLP

ORDER DIRECTING RESPONSE TO  
DEFENDANT'S SUMMARY  
JUDGMENT MOTION

This is a 42 U.S.C. § 1983 prisoner civil rights action. Plaintiff Gabriel Eckard is a pretrial detainee at the Snohomish County Jail in Everett, Washington. The Court previously recommended to the Honorable Richard A. Jones that Plaintiff's motion for summary judgment be denied. (Dkt. # 22 (Report & Recommendation).) However, Judge Jones has not yet ruled on that Report and Recommendation.

Currently before the Court is Defendant Sgt. Jea Lee’s motion for summary judgment requesting that Plaintiff’s excessive force claim against him be denied, and this action be dismissed with prejudice. (Dkt. # 24 (Defendant’s Motion for Summary Judgment).) Rather than substantively respond to Defendant’s summary judgment motion, however, Plaintiff has filed an “objection” contending that Defendant’s filing of his dispositive motion is premature. (Dkt. #

1 26.) Specifically, Plaintiff argues that allowing Defendant to file a summary judgment motion  
2 before Judge Jones has had an opportunity to rule on his previous motion prejudices him by  
3 presuming that his dispositive motion will be denied. (*Id.*)

4 In Defendant's response to Plaintiff's objections, he argues that there is no rule that  
5 precludes this Court from considering his pending summary judgment motion simply because a  
6 final order has not issued on a prior dispositive motion. (Dkt. # 28.) Defendant asks the Court to  
7 dismiss Plaintiff's objections, and issue a prompt ruling on Defendant's timely dispositive  
8 motion. (*Id.* at 3.)

9 Defendant is correct. Plaintiff has cited no authority, and the Court is aware of none,  
10 preventing this Court from considering Defendant's summary judgment motion before a final  
11 ruling is issued on Plaintiff's motion by Judge Jones. The Court is also unpersuaded that Plaintiff  
12 will be unfairly prejudiced by this Court ruling on Defendant's summary judgment motion in a  
13 timely manner. Because the Court does not intend to delay its recommendation regarding  
14 Defendant's summary judgment motion until Judge Jones has ruled on the prior Report and  
15 Recommendation, Plaintiff should substantively respond to Defendant's motion (if he intends to  
16 do so) by no later than **Monday, December 16, 2019**. The Court does not anticipate granting any  
17 extensions of this deadline absent extraordinary circumstances. Defendant may file a reply by no  
18 later than **Friday, December 20, 2019**. The Clerk of the Court is also directed to RE-NOTE  
19 Defendant's summary judgment motion (dkt. # 24) for consideration by the Court on **Friday,**  
20 **December 20, 2019.**

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The Clerk is directed to send copies of this order to the parties and to the Honorable Richard A. Jones.

Dated this 12th day of November, 2019.

W. J. Ferguson

MICHELLE L. PETERSON  
United States Magistrate Judge